

Before the
UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
Amendment of Part 73 of the)	
Commission's Rules to Permit)	Docket No.: MM DOCKET NO. 99-325
The Introduction of Digital Audio)	
Broadcasting in the AM)	
And FM Broadcast Services)	

MOTION by John Pavlica, Jr. to STAY PROCEEDINGS
PENDING FINAL FEDERAL COMMUNICATIONS COMMISSION
DECISIONS OF THREE MOTIONS

My name is John Pavlica, Jr., and I am an electrical engineer and a licensed amateur radio operator residing in Toledo, Ohio, and I have been actively following the proposed introduction of digital radio in the USA AM and FM broadcast bands as listed in MM FCC Docket # 99-325. I have a great interest, as does the public, in the United States broadcast bands, and any proposed changes to “our” broadcast bands, and how they could affect the 500-800 million existing radio receivers in the USA.

I am filing this Motion to stay the current proceedings in FCC Docket 99-325 - which could change the existing interim IBOC broadcasts to a permanent authorization of IBOC broadcasts, as well as possibly permitting AM IBOC broadcasts at night, which is current not authorized – until and unless the FCC proceeds to a point of final determination of three relevant, material, and pending proceedings which the FCC has never completed. These three are all Motions which:

(A) I have filed in MM Docket #99-325 and

(B) The Commission has never granted, denied, or even acknowledged in any way.

My Three Relevant, Material, and Pending Proceedings

In reverse chronological order, I have submitted the following Motions to the FCC in MM Docket #99-325 (please note: the dates listed for the documents reflects the date the document was “received/adopted” into the FCC ECFS):

A February 11, 2004 “**COUNTERPROPOSAL**” document (dated February 10, 2004),
(to addresses the issue of nighttime AM broadcasting, and AM receiver quality standards) – which I filed *4 months ago*

And

An August 22, 2003 “**MOTION TO ENLARGE ISSUE**” document (dated August 22, 2003),
(to address testing of multiple AM systems) – which I filed *10 months ago*

And

A January 13, 2003 “**MOTION TO DISMISS**” document (dated January 10, 2003),
(which was essentially a Petition For Reconsideration of the FCC’s “interim” authorization of certain IBOC broadcasts) - filed *1 year and 5 months ago*.

I consider these documents important because they allow the Commission, AM/FM broadcasters, transmitter manufacturers, receiver manufacturers, and the general public to examine the entire issue of IBOC before a great deal of money is spent by the public (and broadcasters) on a system that may not best serve the general public – the AM broadcast band in particular. I consider the AM broadcast band to (still) be of great value with its ability to provide important information to a very large population over a wide area with just a single transmitter – particularly at night.

“Due Process Of Law” Requirements

It is my understanding that under both the Administrative Procedure Act and the Due Process Clause of the United States Constitution, that the FCC may deny any and all of my three Motions I have filed.

However, I believe that the FCC must do so officially *and* it must do so for cause. That is: The FCC must *explicitly address*, not just simply ignore, my arguments made in my three pending Motions.

Furthermore, if my requests are denied, then it is my understanding that the Commission must provide one or more explicit reasons to me – stated in a way which is clear enough, firm enough and final enough to provide a basis for appealing those denials in Congress, in court and/or in the court of public opinion.

Instead, the FCC has simply left my three filings “pending”, while proceeding to weigh policy changes that would, automatically, preclude the relief that has been sought.

It is my understanding that it is premature for the Commission to be considering whether to change the current IBOC authorization from an “interim” status to a permanent status, and/or whether to

lift its current ban on AM IBOC broadcasts *at night*, when it has not yet resolved the pending questions that I've presented in the three Motions which I have previously submitted (in addition to Comments I already on file).

Since these pending questions inquire about whether or not IBOC Digital Radio should have been authorized *in the first place* on the AM Band, it is both logical and equitable, as well as legally necessary, for the FCC to resolve the pending questions *first (mine and others)* - before they decide whether to make the current IBOC approval permanent and/or authorize *nighttime* AM IBOC broadcasts. Conceivably, resolving these pending, unanswered questions *first* could render moot the need to address the other IBOC implementation questions at all.

In any event, the broadcast equipment manufacturers, receiver manufacturers, the radio listeners and radio stations *all* deserve the benefit of having access to the best technology available for radio reception.

This is *especially* true when, as in this case, the FCC is selecting that technology *for* the nation's radio listeners and radio stations, rather than allowing marketplace competition between different equipment manufacturers, or mandating receiver standards.

Failure to consider the requests I have made to the FCC, in the three Motions I have submitted, would not only lead to the "opportunity cost" of foregoing the best technological option(s) available, but it would likely also make the radio broadcasting "status quo" much worse – by taking what is remaining of the small, locally oriented radio stations off the radio dial with an expensive proprietary technology; in addition, analog AM reception for millions of listeners will be of a lesser quality than what is available now.

THE MOTION ITSELF

For the reasons that are set forth herein, and in some of the other substantive filings and comments which I have made so far in FCC MM Docket #99-325, I submit the following Motion:

I move that the Commission stay the current proceedings in FCC Docket 99-325 *until and unless* each of my three pending Motions that I have submitted has been either granted or denied, in whole or in part, and for reasons which are clearly and fully explained to the public.

In reverse chronological order, my three pending Motions in question are as follows:

(with dates per the FCC ECFS “received/adopted” dates)

A February 11, 2004 COUNTERPROPOSAL in FCC MM Docket #99-325

And

An August 22, 2003 MOTION TO ENLARGE THE ISSUE

And

A January 13, 2003 MOTION TO DISMISS

As always, I thank you for allowing me to voice my opinions and suggestions.

Respectfully submitted,

John Pavlica, Jr.

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Dated: June 16, 2004